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Date 11/27/90

Surname [REDACTED]

11/29/90

EIN: [REDACTED]

KEY DISTRICT: [REDACTED]

Dear Applicant:

We have considered your application for recognition of exemption from federal income tax under section 501(c)(3) of the Internal Revenue Code (the Code).

The information submitted indicates that you were incorporated on [REDACTED], under the laws of [REDACTED] for the purposes of providing educational, artistic, recreational, and other assistance to the students of [REDACTED] (referred to in this ruling as "School"). School provides instruction to students in grades Kindergarten through 8th.

Your activities consist of providing educational and social opportunities to the parents and children of School. Some of the specific activities that you have engaged in include: awarding trophies and awards to students; assisting in the production of the yearbook; various social activities; and monthly parents meetings. In addition, you have engaged in the purchase of supplies and equipment which, in turn, are lent to School for use by the students. Your Constitution at Article II provides that you will retain ownership of all materials purchased by you. You do not provide funds to School to be used at its discretion.

You have indicated that School is not exempt under section 501(c)(3) of the Code and that you believe that School is a for-profit corporation. You have furnished no information that would indicate that School is operated in a racially non-discriminatory manner.

Section 501(c)(3) of the Code provides for the exemption from federal income tax of organizations organized and operated exclusively for charitable or educational purposes.

Section 1.501(c)(3)-1(a)(1) of the Income Tax Regulations provides that in order to be exempt as an organization described in section 501(c)(3), an organization must be organized and

operated exclusively for one or more of the purposes specified in that section. If an organization fails to meet either the organizational test or the operational test, it is not exempt.

Section 1.501(c)(3)-1(c)(1) of the regulations provides that an organization will be regarded as "operated exclusively" for one or more exempt purposes only if it engages primarily in activities which accomplish one or more of such exempt purposes specified in section 501(c)(3). An organization will not be so regarded if more than an insubstantial part of its activities is not in furtherance of an exempt purpose.

Section 1.501(c)(3)-1(c)(2) of the regulations provides that an organization is not operated exclusively for one or more exempt purposes if its net earnings inure in whole or in part to the benefit of private shareholders or individuals.

Section 1.501(c)(3)-1(d)(ii) of the regulations provides in part that an organization is not organized or operated exclusively for one or more of the purposes specified unless it serves a public rather than a private interest. Thus, to meet the requirement, it is necessary for an organization to establish that it is not organized or operated for the benefit of private interests such as designated individuals, the creator or his family, shareholders of the organization, or persons controlled, directly or indirectly, by such private interests.

Revenue Ruling 75-50, 1975-2 C.B. 587, sets forth guidelines and recordkeeping requirements for determining whether private schools have racially nondiscriminatory policies as to students.

Your organization supports the activities of a school which is not exempt under section 501(c)(3) and which appears to be a for-profit entity. Although you will retain title to items you purchase for the school, your purchase of these items will relieve the school of financial obligations it would ordinarily undertake thereby serving the private interests of the school and its owners. You have also failed to establish that the school is operated in a racially non-discriminatory manner as is required by Rev. Proc. 75-50.

Accordingly, you have not demonstrated that you are operated exclusively for purposes described in section 501(c)(3). You are therefore not entitled to exemption under section 501(c)(3) of the Code.

You are required to file federal income tax returns on Form 1120. Contributions to you are not deductible under section 170 of the Code.

You have the right to protest our ruling if you believe that it is incorrect. To protest, you should submit a statement of your views, with a full explanation of your reasoning. This statement must be submitted within 30 days of this letter and must be signed by one of your officers. You also have a right to a conference in this office after your statement is submitted. If you want a conference, you must request it when you file your protest statement. If you are to be represented by someone who is not one of your officers, he/she must file a proper power of attorney and otherwise qualify under our Conference and Practice Requirements.

If you do not protest this proposed ruling in a timely manner, it will be considered by the Internal Revenue Service as a failure to exhaust available administrative remedies. Section 7428(b)(2) of the Code provides, in part, that a declaratory judgment or decree under this section shall not be issued in any proceeding unless the Tax Court, the Claims Court, or the District Court of the United States for the District of Columbia determines that the organization involved has exhausted administrative remedies available to it within the Internal Revenue Service.

If we do not hear from you within 30 days, this ruling will become final and copies will be forwarded to your key District Director. Thereafter, if you have any questions about your federal income tax status, including questions concerning reporting requirements, please contact your key District Director.

When submitting additional letters with respect to this case to the Internal Revenue Service, you will expedite their receipt by placing the following symbols on the envelope: E:EO:R: 2-4-CP, Room 6138. These symbols do not refer to your case but rather to its location.

Sincerely,

Chief, Exempt Organizations
Rulings Branch 2

bcc: [REDACTED]

cc: [REDACTED]

original: [REDACTED]

Code	[REDACTED]	Reviewer	Reviewer	Reviewer	Reviewer
Surname	[REDACTED]				
Date	9-24-90 9-24-90				